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NTIA AUTHORIZATION

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMUNICATIONS

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

AUTHORIZATION FOR THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

NOVEMBER 1, 1989

Printed for the use of the Committee on Commerce, Science, and Transportation

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NTIA AUTHORIZATION

WEDNESDAY, NOVEMBER 1, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON COMMUNICATIONS,
Washington, D.C.

The subcommittee met at 9:19 a.m. in room SD-562, Dirksen Senate Office Building, Hon. James J. Exon presiding.

Staff members assigned to this hearing: John Windhausen and Tom Cohen, staff counsels; and Gina Keeney, minority staff counsel.

OPENING STATEMENT BY SENATOR EXON

Senator EXON. The subcommittee will please come to order.

This morning the hearing is to consider authorization legislation for the National Telecommunications and Information Administration, or NTIA. Our only witness at this hearing is Ms. Janice Obuchowski, who is the Administrator of NTIA and Assistant Secretary of Commerce for Communications and Information.

NTIA serves as the principal advisor to the Executive Branch on communications policy. It is responsible for setting long-range policy goals for the nation and for coordinating and implementing of these policy goals by the Executive Branch agencies.

As telecommunications becomes increasingly important to the nation's economy, NTIA's importance grows as well. The questions that NTIA must deal with over the next few years are as complex and essential to this nation's future as those in any industry.

NTIA must consider how to amend our procedures and policies for allocating spectrum to ensure that we are able to take advantage of new technologies such as high-definition television. And NTIA must develop strategies for promoting U.S. interests in international telecommunications conferences sponsored by the International Telecommunications Union.

NTIA must decide how to promote the installation of high technology infrastructure for telecommunications in the most efficient manner.

Each of these questions requires sophisticated analysis and long-range thinking. NTIA must also be an active player in current policy debates. It cannot afford to sit by the sidelines while those policy decisions are being implemented. NTIA must strive to coordinate U.S. policy initiatives and meld them into a coherent framework that will lead us into the information age without undue confusion or excess cost. NTIA's mission is a most ambitious one.

We are lucky to have someone in charge of this post who is knowledgeable, competent, and a pleasure to work with. As a former senior official at FCC, an executive of a major U.S. telecommunications company, and now Administrator of NTIA, Mrs. Obuchowski has the breadth of experience and talent that we need in this role.

I look forward not just to hearing her testimony this morning, but also to continuing to work with her as she works with the members of this committee on matters that we consider very important.

Is there any opening statements by the other members?

OPENING STATEMENT BY SENATOR PACKWOOD

Senator PACKWOOD. I do have one, Mr. Chairman, if I might.

Ms. Obuchowski, I submitted prehearing questions to you regarding the administration of the public telecommunications facilities program, and those questions reflect concern brought to my attention by a constituent, KSOR Radio in Ashland, which applied for a grant this year.

I have worked with KSOR for many years and they are a first-rate public radio station. They have consistently provided high quality programming that is responsive to community needs. They have been innovative leaders in using a wide range of telecommunications technology and, by being innovative, KSOR has been able to bring the highest quality signal and programming to communities at the lowest possible operating costs.

I support PTFP. That is why I want to make sure the integrity of this program is not undermined by the lack of specific guidelines by which to measure grant applications.

Ms. Obuchowski, I know you are new to this program and you came to NTIA toward the end of the grant cycle for the year. However, given your excellent reputation and your experience at the FCC, I am hopeful that you will be able to come up with some solution to the very unfortunate situation that occurred with the KSOR application.

I would like to follow up with further questions after the hearing. I very much want to hear your recommendations for improvement in the administration of PTFP. We need to ensure that this program runs smoothly and we need to ensure that applications will be considered on their merits and not unfairly affected by outside parties.

Thank you, Mr. Chairman.

Senator EXON. Thank you, Senator Packwood.

Senator Burns, do you have an opening statement?

OPENING STATEMENT BY SENATOR BURNS

Senator BURNS. Thank you, Mr. Chairman.

Just to congratulate our witness today on the good job she is doing over there. We too have a few concerns, but I think why I am principally here today—and I will have a few questions along this line—is the position on several different issues that come before the FCC, the positions that the Administration will be taking.

As we go along and we hear your statement, I will ask those questions. But for the most part, I think you are doing a great job.

We are going into an era now, and it is like the Chairman this morning says, to take us into the information age. Well, we are already in the information age and it is happening out there, and rather quickly because of new technologies and the education along that line.

So I congratulate you on the job that you are doing, and we will get right in. I am interested to hear what you have to say. Thank you for coming this morning.

Thank you, Mr. Chairman.

Senator EXON. Thank you, Senator Burns.

I have an opening statement that Senator Inouye would like to have included in the record.

[The statement follows:]

OPENING STATEMENT BY SENATOR INOUYE

We are here today to consider the re-authorization of the National Telecommunications and Information Administration. This hearing will give us a chance to review the activities of NTIA over the past 2 years since our last authorization hearing. We will also wish to hear about NTIA's plans for the future. Our only witness this morning will be Ms. Janice Obuchowski, the newly installed Administration of NTIA and Assistant Secretary of Commerce for Communications and Information.

Today I am also introducing legislation to re-authorize NTIA for fiscal years 1990 and 1991. The bill authorizes $14,554,000 in funds for fiscal year 1990 and $15,000,000 for fiscal year 1991, and allows for necessary non-discretionary cost increases. The amount authorized for 1990 reflects the amount contained in the President's fiscal year 1990 budget submission. This amount also reflects a slight increase in funding from last year to reflect the growing national emphasis on telecommunications matters.

NTIA serves as the principal adviser to the President on domestic and foreign telecommunications issues. It develops plans and recommends policies on these issues, it manages the Federal Government's use of the radio frequency spectrum, and it conducts a variety of research activities.

The United States faces a number of important questions in the communications industry in the coming years. The country is burdened by an annual trade deficit in telecommunications alone of over $2.5 billion. There is concern in some quarters that we are falling behind the Japanese and the Europeans in making the most efficient use of the spectrum. We are also increasingly concerned about the quality of children's programming on television and are striving hard to improve the performance of our broadcasting system in meeting the needs of children. NTIA's activities in these areas will be very significant to our country's future.

Especially important in today's world is NTIA's role in the international arena. In the past, NTIA has participated in negotiations with foreign nations to advance U.S. trade opportunities. NTIA also plays an active role in shaping U.S. positions and strategy at a variety of international conferences within the international telecommunications union. These conferences are increasingly important not just for discussing trade opportunities, but also as forums to ensure international harmony and cooperation in the regulation of international communications.

NTIA also participates in the process of issuing instructions to Comsat, the U.S. representative to Intelsat and Inmarsat. The subcommittee is keeping a close eye on Comsat and will be eager to hear about NTIA's views on Comsat's recent activities.

I look forward to exploring some or all of these issues during this hearing. I hope that Ms. Obuchowski will take advantage of this opportunity to educate us as fully as possible about her views and her plans for the future.

Senator EXON. Ms. Obuchowski, we are pleased to hear your testimony today.

STATEMENT OF JANICE OBUCHOWSKI, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, DEPARTMENT OF COMMERCE

Ms. OBUCHOWSKI. Thank you, Mr. Chairman, and thank you both for the very kind words. I would request your leave to submit my more extended statement for the record.

Senator EXON. Without objection, that will be included..

Ms. OBUCHOWSKI. Thank you, sir.

Mr. Chairman and member of the subcommittee.

Thanks to the leadership of my predecessors and the hard work of our NTIA staff, we have enjoyed a very good and open relationship with the Congress, and I hope that under my leadership that relationship will continue with the members of this Congress and with the expert staff that we enjoy working with so much.

Together I hope, as you have pointed out, we can strive to promote the competitiveness of the communications sector and to assure that the American public receives the world class telecommunications services that it has come to expect and that it certainly deserves.

I shall emphasize three areas of policy development while at NTIA. First, NTIA will begin a study of the nation's telecommunications infrastructure. The growing interest in this area is demonstrated by the recent support of the White House Office of Science and Technology Policy for a high-speed supercomputer network and similar legislative proposals by Senator Gore and Congressman Walgren.

NTIA's study will focus on the public switched to telephone network and its role as a factor of production in U.S. economic and social development. This study will result in policy recommendations on infrastructure for which we shall seek bipartisan support.

Second, NTIA will examine the effects of globalization in markets for mass media services. Currently, firms such as Time-Warner and Sony are harnessing a range of technologies, from broadcast satellite to cable to consumer electronics, to become major participants in the global information industry. We are just beginning to understand the implications of competitive pressures internationally for our domestic mass media policies, including our long-held policy preference for local orientation in broadcast materials.

This initiative will examine U.S. media policies in light of these globalizing trends.

Third, NTIA will study spectrum utilization and efficiency. We shall soon release a notice of inquiry to elicit comments on the state of spectrum management and suggestions on ways to allocate spectrum more effectively and to use it efficiently.

Spectrum scarcity impedes the development and introduction of innovative services and, at worst, can threaten the ability of public safety agencies to adequately serve the public.

We must find ways to ameliorate these problems, and the NTIA study should provide the basis for possible solutions.

On the international front, NTIA looks forward to cooperating with the other concerned agencies of government in the development of international telecommunications policies. NTIA has unique strengths to bring to this partnership and we expect to achieve a unified, cohesive approach for international conferences and standard-setting fora.

Specifically, in the area of standards development NTIA's spectrum management personnel and engineers from our Institute of Telecommunications Sciences in Boulder, Colorado, are world-recognized authorities who serve in leadership positions in a number of international organizations.

In the fiercely competitive world telecommunications market, adoption of standards is more than just a technical matter. Therefore, a high level of U.S. competence in standards development is increasingly important in the international arena.

As you know, NTIA will be preparing for a number of international conferences, especially the World Administrative Radio Conference on Frequency Allocations to be held in 1992. This conference will address many of the issues remaining from previous conferences affecting areas such as mobile services, high-frequency broadcasting, HDTV, and satellite broadcasting.

NTIA will also continue its activities in conjunction with other agencies in opening telecommunications markets for U.S. firms in both developed and developing nations. We will explore new opportunities to contribute our technical and regulatory expertise in Eastern Bloc countries, such as Poland and Hungary, where doors may be opening and needs certainly are great.

Our federal radio spectrum management activities, which account for a major part of our program activities, will continue to fulfil the government's needs for frequency spectrum.

In this respect, the research and technical assistance programs of the Institute for Telecommunications Sciences have special importance. A large part of ITS resources are devoted to ground-breaking research—finding new, more efficient ways in which to use this resource and thus accommodate all possible requirements to the maximum extent.

Finally, Mr. Chairman, I am pleased to report that we are very close to signing a memorandum of agreement with NASA and the National Oceanographic and Atmospheric Administration to provide interim satellite capacity for the PSAT program. This is a program of particular concern to Senator Inouye because of its orientation to the Pacific islands and its base in Hawaii.

This capacity, along with NTIA support for the purchase of earth stations, will allow PSAT to provide valuable services to the Pacific islands community until a more permanent solution is found.

Mr. Chairman, the size of the industry which NTIA oversees is enormous and growing rapidly. Communications and computer data processing account for more than five percent of the U.S. GNP or more than $250 billion in 1987, and these are very, very conservative numbers.

The range of issues is correspondingly broad and complex. I am very proud of the team of dedicated professionals at NTIA and I believe NTIA's track record compares favorably with any other federal agency.

It is for this reason that I would deeply appreciate your support for NTIA's reauthorization at the level of $14.6 million for fiscal year 1990 and such sums as may be necessary for 1991.

Thank you very much for your attention, and I look forward to your questions.

[The statement follows:]

STATEMENT OF JANICE OBUCHOWSKI, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, DEPARTMENT OF COMMERCE

Mr. Chairman and Members of the Subcommittee:

Introduction

Thank you for this opportunity to testify on the reauthorization of appropriations for the National Telecommunications and Information Administration (NTIA). Mr. Chairman, thanks to the leadership of my predecessors and the hard work of our staff, NTIA has enjoyed a very positive, open relationship with the Congress. I can assure you that I intend to maintain and to build on this responsive relationship with this Congress, as together we strive to promote the competitiveness of the telecommunications sector and to ensure that the American public receives world class telecommunications and mass media services.

I am indeed honored to have been selected by President Bush to lead NTIA and to serve, through the Secretary of Commerce, as his principal adviser on telecommunications policies. The President and Secretary Mosbacher recognize that this world is experiencing an accelerating globalization of its industries and markets. And no industry is more subject, or contributes as much, to that trend as telecommunications and information. We can no longer look at domestic and international policies for this industry in isolation; they are inextricable parts of a whole.

This perspective will permeate NTIA's mission in the years ahead. NTIA will examine the implications of the globalization that technological growth and worldwide economic trends have fostered, and choose those areas where we can make the best contributions in support of U.S. goals.

Agency Responsibilities

NTIA's responsibilities today include --

- Serving through Secretary Mosbacher as the principal Executive branch adviser to the President on telecommunications policy;
- Developing and presenting Executive branch policy on communications and information services;
- Setting policies for and managing use of the radio spectrum by the Federal Government;
- Developing, with the FCC, the State Department, and other agencies, international communications policies for presentation at international conferences and meetings, and overseeing the activities of COMSAT as U.S. signatory to INTELSAT and INMARSAT;
- Providing leadership for the nation's ISDN standardization effort, providing technical support to other agencies and conducting research, chiefly through our Institute for Telecommunication Sciences (ITS) in Boulder, Colorado; and,

- **Administering the Public Telecommunications Facilities Program (PTFP), which makes matching capital grants in aid of nonprofit communications sector projects.**

Primary Emphases

I shall emphasize three areas of policy development as NTIA fulfills its responsibilities assigned by statute and Executive Order.

First, NTIA will begin a study of the nation's telecommunications infrastructure. The growing interest in this area is demonstrated by the recent support of the White House Office of Science and Technology Policy for a high speed supercomputer network and similar legislative proposals by Senator Gore and Congressman Walgren.

NTIA's study will focus on the public switched telephone network and its role as a factor of production in U.S. economic and social development. It will also examine the role of private communications networks, cable television and other transmission technologies in meeting the nation's communications and information needs.

This study will also examine the policy implications of the new technologies that will be available for the delivery of increasingly sophisticated services. The prospective availability of such technologies as fiber optic cable to the home and Integrated Services Digital Networks (ISDNs) raises a host of interrelated issues that we in the policy making community must understand and be prepared to resolve in the interest of our nation's economic and social welfare.

NTIA's study will result in policy recommendations on infrastructure development for which we shall seek to attain bipartisan support. This nation's economic activities have become so dependent on telecommunications that we can not allow outmoded policies to interfere with innovation in this sector.

Some of the issues which will be examined include:

- the role of telecommunications as a basic building block for many industries;

- the definition of universal service now and in the future. The U.S. should not allow a society to become information rich in some areas and information poor in others;

- economic and social development concerns;

- cooperation among state and federal authorities.

Second, NTIA will examine the effects of globalization in markets for mass media services. Currently, firms such as Time Warner and Sony are harnessing a range of technologies -- from broadcast satellite to cable to consumer electronics -- to become major participants in a global information industry. We are just beginning to understand the implications of competitive pressures internationally for our domestic mass media policies, including our long held policy preference for local orientation in broadcast materials.

This initiative will examine U.S. mass media policies in light of these international developments. We hope through our analysis to provide the basis for formulation of U.S. policies in this critical part of our economy.

Third, NTIA will study spectrum utilization and efficiency. We shall soon release a Notice of Inquiry to elicit comments on the state of spectrum management and suggestions on ways to allocate spectrum more effectively and use it more efficiently.

While spectrum is a colorless, tasteless, and odorless resource, it nonetheless is extraordinarily valuable to those who possess the rights to its use. Spectrum scarcity impedes the development

and introduction of innovative services and, at worst, can threaten the ability of public safety agencies to adequately serve the public. We must find ways to ameliorate these problems and the NTIA study should provide the basis for possible solutions.

Other Issues

In addition, the Department of Commerce and NTIA will continue a long tradition of involvement with AT&T Consent Decree issues. The Bell Companies collectively represent about half of the resources of the U.S. telecommunications industry, so the rules governing their activities are obviously of great importance. The ground rules for participation in this critical industry must be based on fundamental policy principles that promote the international competitiveness of the U.S. economy and the widespread availability to the public of advanced network services.

The Bush Administration is currently conducting its own analysis to determine the proper course of action in this area. NTIA will be prepared to work with the Congress as it considers various legislative proposals to effect changes in this area.

NTIA will also continue its role within the Department of Commerce as this Administration develops its technology policies. As Secretary Mosbacher has observed, High Definition Television is one case study of high technology advancement.

NTIA will remain highly involved in High Definition Television issues. We are very active in the CCIR -- an international technical committee under the International Telecommunication Union, which is considering adoption of an HDTV production standard in meetings this year and next. Agreement on as many technical parameters as possible will minimize barriers to international program distribution where U.S. producers and distributors are major exporters.

NTIA's research laboratory, the Institute for Telecommunication Sciences, will be undertaking propagation measurements and channel assignment studies of the television band to assess ways in which broadcasters may augment their signals with assigned television frequencies to offer Advanced Television transmissions.

We will continue to assist the FCC and its Advisory Committee by studying the economic and policy implications of various standards proposals. The study will examine the performance of the various transmission media - over-the-air broadcasting, coaxial cable, and fiber optics - in presenting HDTV to the

viewer. Our goal is to add a valuable and impartial perspective to the analysis of available options.

On the international front, NTIA looks forward to cooperating with the Department of State, the United States Trade Representative, and the Federal Communications Commission as well as other agencies within the Department of Commerce in the development and implementation of international telecommunications policies. This area is too critical to U.S. interests to allow parochial interests to interfere with effective action. NTIA has unique strengths to bring to this interagency partnership and we expect to achieve a unified, cohesive approach for international conferences and standards setting forums.

Specifically, in the area of standards development, NTIA's spectrum management personnel and engineers from our Institute for Telecommunication Sciences are world-recognized authorities who serve in leadership positions in a number of international organizations. In the fiercely competitive world telecommunications market, adoption of standards is more than just a technical matter. Therefore, a high level of U.S. competence in standards development and implementation is increasingly important in the international arena.

NTIA will be preparing for a number of international conferences, especially the World Administrative Radio Conference on frequency allocations to be held in 1992. This conference will address many of the issues remaining from previous conferences affecting areas such as mobile services, high frequency broadcasting, HDTV and satellite broadcasting. NTIA is leading preparation of government views on these issues while the FCC represents the private sector. There will be close coordination between NTIA and the FCC during conference preparation.

NTIA will also continue its activities in conjunction with other agencies in opening telecommunications markets for U.S. firms in both developed and developing nations. We will explore new opportunities to contribute our technical and regulatory expertise in Eastern Bloc countries such as Poland and Hungary where doors may be opening and needs are great.

Our Federal radio spectrum management activities, which account for a major part of our program activities, will continue to fulfill the Government's needs for frequency spectrum. The Government relies upon radio communications to meet the full gamut of public service, air traffic control, weather monitoring, law enforcement, and national defense requirements. As both Government and nongovernment radio spectrum demands grow, managing this finite national resource efficiently becomes more and more important.

In this respect, the research and technical assistance programs of the Institute for Telecommunication Sciences have special importance. A large part of ITS' resources are devoted to finding new, more efficient ways in which to use the spectrum, and thus accomodate all requirements to the maximum extent possible. ITS' research on very high frequency millimeter waves, for instance, can help lead to a great expansion in the amount of usable spectrum.

Finally, Mr. Chairman, I am pleased to report that we are very close to signing a Memorandum of Agreement with NASA and the National Oceanographic and Atmospheric Administration to provide interim satellite capacity for the PEACESAT program. This capacity along with NTIA support for the purchase of earth stations will allow PEACESAT to provide valuable services to the Pacific Islands community until a permanent solution is found.

Conclusion

Mr. Chairman, the size of the industry which NTIA oversees is enormous and growing rapidly. Communications and computer data processing account for more than 5% of U.S. GNP or more than $250 billion in 1987. The range of issues is correspondingly broad and complex.

I am very proud of the team of dedicated professionals at NTIA and I believe NTIA's track record compares favorably to any other Federal agency. It is for this reason that I would deeply appreciate your support for NTIA's reauthorization at the level of $14.6 million for Fiscal Year 1990 and such sums as may be necessary for 1991.

I thank you again for this opportunity to testify and am prepared to respond to any questions you may have.

Senator EXON. Thank you, Ms. Obuchowski, and we have entered your full statement into the record.

I have several questions that I would like to go into and I probably have some for the record. But at this time, if you are prepared to ask your questions, Senator Burns, I will be glad to yield to you at this time.

Senator BURNS. Thank you, Mr. Chairman.

I guess there are several items that are coming before this subcommittee of Senator Inouye's in particular I have been kind of interested in, and I just want to find out where the Administration is coming from and where you are.

If you would like to comment on—first of all, I guess, coming up is the impending MFJ reform, cable-telco cross-ownership, cable regulation. Would you want to comment on that, where you are trying to go with those areas?

Ms. OBUCHOWSKI. Yes, Senator. Senator Burns, starting first with the MFJ, the Bush Administration has made a very complete effort to hear all sides of this very difficult and, as you know, I am sure, contentious issue. We are in the process, within the Bush Administration, of developing an Administration position and, if you believe the reports you have seen in the press, there have been a variety of meetings at the EPC or staff level to work on an Administration position.

An issue of this complexity is not one that can be resolved easily. We are going to be viewing it from a standpoint of the competitiveness of the United States. Certainly when you have restrictions on several of the major corporations in the high tech sector, you have to look at those carefully and see if there is a less complete way more limited than a complete ban—to perhaps permitting their participation in some other high technology sectors.

But as I have said before, God is in the details, and the details of how one would protect against monopoly abuses should these companies be allowed into information services or manufacturing are still very much being debated within the Administration, as is the fundamental question.

We expect hopefully to have developed a position in a timely fashion to be able to work with the Congress on this initiative.

Second, or would you like to follow on that?

Senator BURNS. No, I am fine. Now let us move on to cable.

Ms. OBUCHOWSKI. Cable. NTIA has developed something called the Video Study, which basically looked at the whole issue of video, and one of the sub-issues very important within the video area is cable television. And the recommended approach of my predecessor, Mr. Sikes, and NTIA under his leadership, was an approach which was known as video dialtone, basically saying that telephone companies should be allowed into the cable facilities business, that they should be permitted to operate billing and collection operations, but that they should not be in the content area.

Basically, it was an approach that separated the medium from the message. This is a going-in position that NTIA and the Bush Administration is comfortable with. We are going to be looking in the context of our infrastructure study to see whether there is some form of programming or some other form of interactive activity that is also necessary for telephone companies to engage in.

But right now we are adhering rather closely to the video dialtone approach that has been articulated before.

Senator BURNS. Let us go a little further now. Are you going to make the same—would you espouse the idea that the regulation that you put on the telco, that they are just a conduit only and that is all? Would you consider putting the cable industry or cable under the same type of regulation?

Ms. OBUCHOWSKI. Not at this juncture, Senator. I realize there are many serious and deeply held concerns about rate increases. Those are areas that we are following rather closely.

The cable industry is growing very rapidly and in some cases its rates to the public are also growing rather rapidly. So that is of concern to all of us as policymakers.

But at this point, on balance, the track record is one of great innovation in programming by these cable companies, and it would not be our recommendation that they be solely in the conduit business.

Senator BURNS. In the area we have been looking at some legislation that was considered a year ago and was passed by the Senate, was Mr. Metzenbaum's legislation that he crafted in the area of children's TV.

There is two pieces of legislation out there right now. Would you care to comment on where the Administration might be on those two pieces? We have another bill, S. 1215, that goes beyond the limits of Mr. Metzenbaum's bill S. 707.

You do not know where the Administration might be on those two pieces of legislation?

Ms. OBUCHOWSKI. Sir, I believe at this point the Administration does not have a formal recommendation on them. As you know and as you recounted, in the Reagan Administration, the children's television bill was vetoed by the President, and the feeling there was that, while there was an appreciation for the desirability of very good children's program-

ming, content regulation was implied within the bill that was before the President.

At this juncture, the Bush Administration again is tremendously committed to good programming for our children. I think that. The President and the First Lady's commitment to good education is implied in this. At the same time, we are concerned about the First Amendment implications, and the discussion as to these two bills is one that has not at this point resulted in a recommendation that I could make to you, sir.

Senator BURNS. That is about all I have concern with. I will have to apologize to you this morning. I have got another hearing up in Energy here in a little bit.

Thank you, MR. Chairman. I appreciate the opportunity.

Senator EXON. Senator Burns, thank you very much.

Let me followup on that last question Senator Burns made reference to, Ms. Obuchowski, about children's programming. With all the junk, total junk in my opinion, that is on the teolevision today, especially from cable, why is it that we cannot find time to provide quality children's programs?

Is it your opinion that we do not have the advertising means to finance that? Do we not have the desire for people to put children's programming on the regular broadcasting stations or on cable television?

Certainly there is the desire by the public at large for that kind of quality broadcasting or cablizing, what you want to call it. Why are we having so much trouble in this particular area, and why are you people so hung up on the First Amendment to the Constitution?

I cannot imagine anything that receives more abuse or more excuse for not doing anything than the First Amendment to the Constitution. Maybe we ought to broaden that First Amendment to the Constitution. If we ever talk about that, everybody seems to fly off as if you were going to do away with the Bill of Rights and the whole Constitution.

Quality programming for children in my view is more important than sports programming, and that is number one. Generally, if it does not have a ball in it I generally do not watch it.

But I would even give up some of that if I could get more quality programming for children. Why are we having such a terrible time?

Ms. OBUCHOWSKI. If I could answer all your questions, I would be perhaps more omniscient than I would ever claim to be. I think we do have some quality programming for children.

Senator EXON. Yes, we do.

Ms. OBUCHOWSKI. But it is insufficient. We can all agree on that. And we do take pride in the fact that the public television facilities program, which Senator Packwood alluded to, funds stations which do provide a good number of high quality programs for our children. That is point one.

Point two is—and I feel this quite strongly—parents should be voting with their wrists. I cannot figure out for the life of me why parents permit their kids to listen to some of this stuff that does go on the TV

(and I think we can agree on that front) or why advertisers choose to support it.

In terms of the balance, I think we are appreciative of this children's commitment, but the First Amendment commitment is strong. I do not think it is one that, at least in my case, would be so overriding as to preclude at least our listening to arguments that would say that children are different.

Children themselves cannot vote with their wrists, and in some cases there are parents who are not even home. And so that is the sort of discussion that I am willing to entertain.

But at this point the Administration is coming from a rather firm position on the First Amendment, and that is pretty much where we stand.

Senator EXON. Well, we want to keep working in that area. I guess when you tell me that the Administration is coming from a fairly firm commitment, as you just stated, that means there ain't nothing going to happen. Is that about right?

Ms. OBUCHOWSKI. I could not predict, sir.

Senator EXON. My point is that, if you are going to talk about the First Amendment to the Constitution, you are testifying to the fact that that is where the Administration is coming from, that means nothing is going to happen. Is that not about right?

Ms. OBUCHOWSKI. I guess my position was that we are dealing with a circumstance where the last Administration set forth a policy that was absolute, and as the new Administration, issue by issue, is working through these issues, I do not want to predict that we would be exactly that rigid. But we have not come to a new position.

Senator EXON. What did you mean by your statement, then, that the Administration relies on—that where the Administration is coming from is with regard to the First Amendment? Are you not really saying that that means that they are not going to interfere or do not want to interfere or think they cannot interfere?

Or am I misinterpreting what you are saying?

Ms. OBUCHOWSKI. I will try to be clearer, sir. I am sorry. My point of view here is that we are coming from the circumstance where the Reagan Administration had taken an absolute position on the First Amendment.

Senator EXON. Which was a do-nothing policy, is that right?

Ms. OBUCHOWSKI. Which was so committed to this principle that there was a veto of the children's bill in the last term.

I would not hazard a prediction one way or another that the same case would arise in this Administration, because we are coming from a new Administration, and I am sure this issue will be given a fresh look.

Senator EXON. I hope so.

Let me go to the next statement. In your statement you identified that U.S. policies concerning the use of radio frequency spectrum are deserving of especially close scrutiny. Can you describe for us in greater detail what you see as the problems is in the current U.S. spectrum allocation policies, and where you think we should be going?

Ms. OBUCHOWSKI. Well, the spectrum is a national resource that does not appeal to any of the five senses. So it is pretty misunderstood, but it is terribly important. And if you look at the industry that it has created, it is creating about $100 billion worth of revenues every year just from the services side; and on the equipment side, you are dealing with about $50 billion worth of revenues and a net surplus in U.S. exports.

It is an area which on the government side just permeates many, many of our activities, all the way from FBI drug surveillance to public safety uses, to its use in many of the advanced military weapons.

So you are dealing with a situation where, as our economy becomes increasingly complex, the needs for spectrum are growing, and it is a finite resource. I think that there are at least three ways that we could do better.

The first way is to plan ahead more. We tend to be reactive in the spectrum area. The FCC will get an application, and all of a sudden, some wheels will start grinding as to that specific application, instead of having a long-range plan, which is one of the objectives of our study under this Administration.

Secondly, while you cannot create more spectrum, you can learn how to use the spectrum at the uppermost bands. It used to be, and not so long ago, that AM radio was at the high end of the spectrum that was useable. And through an incredible amount of research, both by the private sector and by NTIA at its laboratory—the Institute for Telecommunications Sciences—we are up to the point that we are far, far higher in the bands; and we are able to not increase the amount of spectrum, but increase the range within which it can be used.

The third area that I think we could improve is in the whole administrative process at the FCC, where there is no real premium for being an innovator. If you come up with a new idea about spectrum, first you have to go in and fight a long rulemaking proceeding, where you explain what your innovation is.

Right there you are laying all your cards on the table for the competition. And after about three years worth of notice and comment, the FCC may be able to allocate some spectrum to that specific use.

Then you, the innovator, get into a pot with all the other folks who by now have caught up with you and have their own license applications in, and then you go through another year-long licensing process.

So that is probably not the world's most productive way to encourage innovation. I think it takes a combination of scientific work, long-range planning, and perhaps a tightening up of the administrative procedures here.

Senator EXON. Ms. Obuchowski, you are familiar, I think, over the years back to the beginning days of radio, with the rather significant role that the amateur radio operators played in this whole picture. I understand that the frequencies that had been reserved and used extensively by amateur radio operators are now being threatened or invaded by commercial operators, and that is one of the matters that you are likely to be wrestling with in the future.

What do you know about this particular problem and what are your attitudes in that regard?

Ms. OBUCHOWSKI. I think amateur radio is one of our best services. In being briefed for a hearing we have tomorrow on spectrum on the House side, I was told by our spectrum staff that amateur radio is the most efficient user of the spectrum. There are more people being packed into those bands and using it productively than almost any other use.

So it is a very desirable service. Obviously it has come through in a lot of pinches, you know—the emergency use of amateur radio when all the commercial uses have gone down.

I am not sufficiently aware of incursion of commercial uses, and I appreciate your bringing that to my attention.

Senator EXON. There are some, and if you did not know about it that is the reason I asked the question. There have been some contacts by radio amateurs to me on this particular problem.

As I take it, there was some difficulty with the cellular telephones coming into the market, crowding out some of the assigned frequencies, encroachment in that particular market. But I will be glad to supply you with that information.

Ms. OBUCHOWSKI. I appreciate that.

Senator EXON. Thank you for your interest, because I really think those folks do an awful lot of good for us and we need some frequencies for them exclusively or we are going to do away with that important part of our emergency network that we still rely on.

Let me talk a little bit about and get your views on high-definition television. Some policymakers seem to believe that high-definition television has the potential to revive the U.S. electronic industry and significantly improve consumer satisfaction.

What in your view is the potential of HDTV to meet these goals? And certainly it holds a high promise for quality and an awful lot of interest in certain circles today. I am also very much concerned that, from what I can tell, a high portion of this technology is going overseas to foreign competitors, and that even if high-definition television becomes popular in the United States, it may not do much to improve the U.S. electronics industry; it would be just a further drain of our consumer dollars to foreign entities who seem to be moving more rapidly in this area than we are.

What about this whole complex field that I am sure you know something about? Please tell us how you feel about it.

Ms. OBUCHOWSKI. High-definition television I think is a case study of what is right and what is wrong with our consumer electronics industry. I call it a high potential, high risk, long lead time technology.

You are really betting on the outcome with HDTV. It costs a lot of money to develop, and you are not going to get your payback for ten to 15 years. Given the cost of capital in our country, it is not thought to be a tremendously good bet by a lot of our electronics industry.

It is a dilemma, in a sense, because you have both Thomsen, which is a French-based company, and Phillips, which is Dutch-based, and they have become the biggest participants in our market, because General Electric and RCA in their respective wisdoms decided to sell U.S. television companies off to foreign providers.

It is not an easy question whatsoever when these companies make the decision on their own. Having said that, I think there are some things that government should be doing to help the cause of United States manufacturers in high-definition television.

One clearly is getting our act together on standards development. I think that is an area where both Chairman Sikes and NTIA, under my direction, are working very hard and productively.

We have to look at the whole capital gains issue and whether that is going to enhance the flow of capital to this kind of activity.

We are also discussing the possibility of antitrust reform, which might permit joint ventures to take place in this type of area. Certainly everywhere else in the world nobody is worrying about big being bad in this area. They have huge, vertically integrated companies like Sony, like Thomsen, like Phillips, which do not have the antitrust laws in any way impeding their entry into our market.

Senator EXON. Thank you. I just have one more area that I would like to ask you about, and then I will have additional questions for the record. And I would indicate at this time that the record will be kept open for the rest of the day so that any members of the committee who wish to submit questions for the record would do so.

Those questions that are submitted for the record, we would appreciate, Ms. Obuchowski, if you could answer those as promptly as possible.

Let me get into an area that is of increasing concern for the members of this subcommittee and the Commerce Committee as a whole. That is that many members of Congress seem to believe that the cable industry has exploited its status as an unregulated monopoly by charging excessively high rates and offering poor service quality.

Are you concerned about the cable industry, its growing market power? What solutions, if any, would you care to suggest, if not propose, to constrain the ability of cable operators to abuse their monopoly?

And maybe you think they are not abusing their monopoly. If you think they are not, then I would appreciate your saying so. But this is a matter of increasing concern, and it comes up in one way or another in, it seems like, almost every panel or witness that we have before our committee these days. I would like your attitudes and thoughts on it.

Ms. OBUCHOWSKI. First, I would agree that the cable industry has tremendous market power in this country. Typically, the cable company is the only cable company in a franchise area and it is unregulated. Those two sets of factors give it tremendous market power.

I think the record on abuse is, at this juncture inconclusive. I think you have got some companies that seem not to be doing their best by their customers—in fact that seem to be doing a poor job; and then

you have others that are setting very good examples, both for the kinds of programming they are able to offer and for their growth.

I understand the FCC is going to be studying the whole area of cable, the cable industry, in the next year, and my feeling is that I would like to see the complete record on this, and then make a recommendation to you.

It is not an entirely bad news story about the cable industry. Just in my time following that industry, it has grown by leaps and bounds, and I would not believe that it would have done so if it did not have some distinct strengths which the American people are looking for.

The question is when do you want to put a cap on that? And the cable industry is running rather close to the edge right now with the price increases and some of the poorer service quality, but I would not at this point recommend that legislation address the problem.

Senator EXON. Well, thank you. Let me just comment on a few things that we have been looking at here in possibly different ways to solve the situation. We now frequently have the regular broadcasting industry coming before the committee saying that they are having trouble with the cable people because they object to the must-carry rule. The regular broadcasters—and when I say "regular broadcasters," I include the educational broadcasters, the farm broadcasters, and the whole new set of users of the spectrum that is developing up.

Everybody finds they cannot be successful if they cannot be assured they are going to be carried on the local cable outlet, because if they are not carried on the local cable outlet, which is a monopoly, which most people are relying on for the wire to bring the cable into their homes, then they are out of business before they start in business.

It is a very difficult, very difficult field. Then I look up and down—I tuned across it last night. Just to see if there was any ballgame on. As I tuned across the channels to see what I could find that might be of some interest, five or six channels on my Bethesda cable had the hockey game on. It was the same hockey game, but it was being carried on five or six channels.

Some of them blink on and off because—I never quite understand what that is, a channel that I do not pay for or something. But I do pay for Home Team Sports and it is always on there.

Then I have got 66 channels. It sounds like an awful lot of channels. I have searched across. Half of them I do not want. I mean, I just wish I did not have them. I do not need them.

Now, there are other people who might enjoy those channels. I am not saying that they are not entitled to their choice, too.

What I have been trying to suggest to the television people is that if they really want to get away from the charge of being a monopoly, if they really want to get away from the charge that they should not be allowed to sell pearls and earrings and blouses and all those kinds of things on television—that is shopping television. If people want to do that, that is fine.

But I do not like that. I am not going to buy beads and rings and things.

They are giving me a lot of junk that I do not want. Now, I recognize that other people's tastes are not like mine. And I also think we could go a long way to solving this must-carry rule perhaps if we could have regulation, if the cable television people will not do it, allow me, because I am a captive, as are most people, of a cable television line coming into my home, for which I pay $20, $25, or $30, whatever I pay.

I do not mind paying that, but I should have more of a selection. And if the television, cable television that serves my area in Bethesda, Maryland, does not have as good a programming as the cable television that serves the neighboring area of Virginia, then I think I should be able to order from my cable television the shows that are available in Virginia.

That would require, you see, a very simple proposition where the cable television people would have to feed into my line what I want to see or what I want to hear. Now, it seems like that they could do that. I understand that they could do that technically.

There is no reason why they could not, but they do not want that, because once they get the line in there they not only want to say what goes on that line, but how much money people are going to make on what is carried on that line.

I just tell you that we are into a very difficult area here, where we have got must-carry and everything else. I think if we would broaden that up on some kind of a basis, so we could maybe take away some of the monopoly that cable has with regard to haveing them offering different kinds of programming.

Actually what they have done is taken 66 channels and they think they can put enough stuff on those channels to satisfy everybody, to satisfy all the must-carry people, satisfy all my craves to watch some sports, satisfy all those craves of people who want to shop, satisfy all those craves of those who want to watch the city council in Upper Rothbock, Maryland, on cable television, which I do not want, but then maybe the people up there do.

The cable people have got their problems also with the limited numbers of channels that they have. I would just encourage you to look into some of these kinds of things and see if we cannot open up this and maybe stop the problems that cable television are likely to have in the future. Some are calling for the breakup of the monopoly, and if cable was wise enough at this juncture to see that coming and would open up their programming to allow me to pay them, and to select on some kind of a basis what programming I want and not make it that limited.

Well, what do you think of something like that?

Ms. OBUCHOWSKI. Well, Senator Exon, I think you have hit the nail on the head there. The best way to deal with some of the problems of cable is to address the issue of the franchise monopoly.

I would be willing to, and I know that NTIA under my direction is most willing to, consider any suggestions about how we could introduce more competition into the whole area of cable TV. That to my mind is a preferable alternative than trying to micro-manage either the rates or the programming.

Senator EXON. Thank you, Mrs. Obuchowski.

I believe there are no other questions. There will be some questions for the record. And with that, we assure you that we will be moving ahead on the matter that you are here about, the authorization for the Department, that it will be done as quickly as we can handle it.

Thank you for being here, and we are adjourned.

Ms. OBUCHOWSKI. Thank you, sir.

[Whereupon, at 10:05 a.m., the subcommittee was adjourned.]

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